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### **Docket Number EPA-R03-OW-2010-0736**

Clean Water Act Section 303(d): Notice for the Public Review of the Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay (Document ID EPA-R03-OW-2010-0736-0001)

This plan is largely an EPA self-justification document. To maintain that it is science based is laudable, but hardly true. So is the idea that the “draft Chesapeake Bay TMDL was developed through a highly transparent and engaging process” as this is, in my humble opinion, **not true**.

Just as the information below regarding the attendees at the Martinsburg, WV public meeting shows that little effort had been made by the EPA to advertise the meeting held 4-Nov-2010, and then leaving participants 4 days to make a formal response.

I assure everyone that reads this, more people have been kept in the dark than me regarding this initiative as shown with the response below of how people heard about the Martinsburg, WV meeting.

How did you hear about this Meeting?

- Other (14) -Chesapeake Bay Implementation Committee (2) -Work (2) -Word of Mouth (2) -Radio -WVDEP -Local PSD -Extension Service
- E-mail/Listserve (11)
- Newspaper (1)
- Other Web Site \_\_\_\_\_ (0)
- U. S. EPA Web Site (4)

In addition, EPA has conveniently determined that it is not feasible to extend the 45-day public comment period past November 8, 2010 and delay finalization of the TMDL.

This leaves all participants with an EPA agenda that is poorly thought through. Concerning Jefferson County, WV, the imposed requirements for implementing bay cleanup initiatives are not in line with reality. They are some “scientists” idea of a “model.”

EPA’s claim to have a close working relationship with Chesapeake Bay Program committees representing citizens, local governments and the scientific community may

be true, but my guess is that these are self serving people, with their own private agendas and not really looking at all the issues.

It is also convenient for the EPA to claim the December 31, 2010 date is a specific commitment in the Executive Order 13508 Strategy issued in May 2010. In addition, the settlement agreement between EPA and the Chesapeake Bay Foundation requires EPA to issue the final TMDL by December 31, 2010. This all adds up to forced legislation onto the people.

To claim that "revisions have undergone independent scientific peer reviews, sponsored by the CBP's STAC, before review and approval by the CBP's Criteria Assessment Protocols Workgroup and then the Water Quality Steering Committee/Water Quality Implementation Team for EPA publication on behalf of the partnership", sounds impressive to the laymen but to me, these reviews have been self-supporting and conjecture based - not based on sound scientific data.

Any time I see a scientific paper sponsored by the party of interest, or reviewed by the sponsor, my "sniff-meter" goes off!

A person can pick and chose the argument - either way - with this type of "Data":

Statements in "studies" which claim that "Septic tanks and privies account for the highest total volume of water discharged directly into groundwater and are frequently implicated as sources of groundwater contamination (DiPaola, 1998).", are misleading. The key words here are "frequently implicated". Yes, frequently implicated, but rarely proven to be a large-scale problem.

Studies that state; "To further support the notion that Septic effluent entering aquifers used for drinking water are the most common ground water contamination problems reported from individual home sites (Geraghty and Miller, 1978)." Are then used to support the notion that these systems are a source of nitrogen that eventually enters the bay.

For someone to make the claim that a properly installed, working and maintained septic system for an individual home is a point of pollution and that the bay is better served by having the individual home being connected to a Sewer Treatment Plant is just plain wrong. Once connected to the Treatment Plant, we can be assured that there will be an impact on the bay. Show me the data to support the notion that the septic system is anything but environmentally superior to Municipal Sewer Treatment Plants.

With regard to monitoring water quality, even the EPA's own statements are ignored here with this Draft TDML.

"Monitoring the water resource in a watershed is necessary to identify and record pollution. Monitoring is also essential to constantly evaluate water quality and the health of the water resource. The most dependable way to ascertain if changes in land-based activities have affected water quality is to monitor the land and the water

resource before, during, and after a change in land management or restoration occurs (EPA, 1995).”

Where are the EPA stream monitoring systems and stations in West Virginia?

In a watershed, the relationship between changes in land management and water quality can only be established by following a plan, or monitoring protocol.

I think that West Virginia would be better served by placing stream monitoring stations in the source-waters (springs) as well as the exit points to the Potomac river to capture real data regarding what this area is contributing in Nitrogen, Phosphorus and sediment to the Bay.

Why is the Shenandoah River being ignored here? Its contribution to the TMDL is ignored and shoved into the Potomac watersheds.

Use of modeled load estimates cannot be considered a scientifically sound process and I reject the use of these estimates in the West Virginia Potomac Tributary Strategy process, because the CBP model uses average loadings, not direct measurements.

Before EPA establishes or approves a TMDL that allocates pollutant loads to both point and nonpoint sources, it must determine whether there is *reasonable assurance* that the nonpoint source LAs will, in fact, be achieved and WQS will be attained (USEPA 1991a). If the reductions embodied in LAs are not fully achieved, the collective reductions from point and nonpoint sources will not result in attainment of the WQS. Where are the assurances in this plan?

Monitoring the water is necessary to identify and record pollution events. Monitoring is also essential to constantly evaluate water quality and the health of the water resource. The most dependable way to ascertain if changes in land-based activities have affected water quality is to monitor the land and the water resource before, during, and after a change in land management or restoration occurs (EPA, 1995). At a watershed scale, the relationship between changes in land management and water quality can only be established by following a precise experimental plan, or monitoring protocol. Detailed pursuits of both land management and water quality is important to supply needed information to know there are obtainable results from taxpayer monies spent on over-reaching programs that have historically been unsuccessful.

This stream monitoring will help to diminish the reliance on the current model, which I believe is flawed. A water quality-monitoring network will enable Jefferson County to portray accurately both trends and loads for nutrients and sediment from our contributing streams. It will allow rapid identification of problems and quick solutions to remedy the pollutant. This sampling program can also be used to improve and calibrate other CBP watershed models.

Finally, I like to add that any nutrient trading program will harm the bay by allowing some polluters to pollute more.  
END